

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

WILLIAM EDWARD HIMMELMANN
2450 Alhambra Blvd., Suite 100
Sacramento, CA 95817

Certified Public Accountant Certificate No.
49096

Respondent.

Case No. AC-2007-25

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, as its Decision in this matter.

This Decision shall become effective on April 28, 2008.

It is so ORDERED March 28, 2008.



FOR THE California Board of Accountancy.

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS, State Bar No. 154990
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 445-0767
6 Facsimile: (916) 324-5567

7 Attorneys for Complainant

8
9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. AC-2007-25

13 WILLIAM E. HIMMELMANN
2450 Alhambra Blvd., Suite 100
14 Sacramento, CA 95817

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Certified Public Accountant Certificate No.
49096

16 Respondent.
17

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Carol Sigmann (Complainant) is the Executive Officer of the California
23 Board of Accountancy. She brought this action solely in her official capacity and is represented
24 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Jeffrey
25 M. Phillips, Deputy Attorney General.

26 2. William Edward Himmelmann (Respondent) is represented in this
27 proceeding by attorney Michael Casterton, whose address is 11211 Gold Country Blvd., # 101
28 Gold River, CA 95670.

3. On or about October 9, 1987, the California Board of Accountancy issued Certified Public Accountant Certificate No. 49096 to Respondent. The Certified Public Accountant Certificate was in full force and effect, except that it expired and was not valid from July 1, 1989 to October 3, 1989; from July 1, 1993 to July 23, 1993; and from July 1, 1997 to July 25, 1997; and from July 1, 2005 to June 29, 2007. On June 30, 2007, the certificate was renewed through June 30, 2009, without continuing education ("inactive").

JURISDICTION

4. Accusation No. AC-2007-25 was filed before the California Board of Accountancy ("Board"), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 25, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2007-25 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. AC-2007-25. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

//

//

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. AC-2007-25.

4 9. Respondent agrees that his Certified Public Accountant Certificate is
5 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set
6 forth in the Disciplinary Order below.

7 RESERVATION

8 10. The admissions made by Respondent herein are only for the purposes of
9 this proceeding, or any other proceedings in which the Board or other professional licensing
10 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

11 CONTINGENCY

12 11. The parties understand and agree that facsimile copies of this Stipulated
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
14 force and effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the Board may, without further notice or formal proceeding, issue and enter the
17 following Disciplinary Order:

18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No.
20 49096 issued to William Edward Himmelmann is revoked. However, the revocation is stayed
21 and Respondent is placed on probation for three (3) years on the following terms and conditions.

22 1. **Actual Suspension.** Certified Public Accountant Certificate No. 49096
23 issued to William Edward Himmelmann is suspended for 120 days. During the period of
24 suspension the Respondent shall not engage in any activities for which certification as a Certified
25 Public Accountant or Public Accountant is required as described in Business and Professions
26 Code, Division 3, Chapter 1, Section 5051.

27 2. **Obey All Laws.** Respondent shall obey all federal, California, other
28 states' and local laws, including those rules relating to the practice of public accountancy in

1 California.

2 3. **Submit Written Reports.** Respondent shall submit, within ten (10) days
3 of completion of the quarter, written reports to the Board on a form obtained from the Board.
4 The Respondent shall submit, under penalty of perjury, such other written reports, declarations,
5 and verification of actions as are required. These declarations shall contain statements relative to
6 Respondent's compliance with all the terms and conditions of probation. Respondent shall
7 immediately execute all release of information forms as may be required by the Board or its
8 representatives.

9 4. **Personal Appearances.** Respondent shall, during the period of probation,
10 appear in person at interviews/meetings as directed by the Board or its designated
11 representatives, provided such notification is accomplished in a timely manner.

12 5. **Comply With Probation.** Respondent shall fully comply with the terms
13 and conditions of the probation imposed by the Board and shall cooperate fully with
14 representatives of the Board of Accountancy in its monitoring and investigation of the
15 Respondent's compliance with probation terms and conditions.

16 6. **Investigation.** Respondent shall be subject to, and shall permit,
17 investigation of the Respondent's professional practice at any time by representatives of the
18 Board, with or without prior notice.

19 7. **Comply With Citations.** Respondent shall comply with all final orders
20 resulting from citations issued by the Board of Accountancy.

21 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
22 Respondent should leave California to reside or practice outside this state, Respondent must
23 promptly notify the Board in writing of the dates of departure and return. Periods of non-
24 California residency or practice outside the state shall not apply to reduction of the probationary
25 period, or of any suspension. No obligation imposed herein, including requirements to file
26 written reports, reimburse the Board costs, or make restitution to consumers, shall be suspended
27 or otherwise affected by such periods of out-of-state residency or practice except at the written
28 direction of the Board.

1 9. **Violation of Probation.** If Respondent violates probation in any respect,
2 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
3 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
4 probation is filed against Respondent during probation, the Board shall have continuing
5 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
6 is final.

7 10. **Completion of Probation.** Upon successful completion of probation,
8 Respondent's license will be fully restored.

9 11. **Ethics Course/Examination.** Respondent shall take and pass with a
10 score of 90 percent or better a Board approved ethics examination prior to the end of the
11 suspension period. Respondent must achieve a successful passing grade, with proof of the
12 passing grade submitted to the Board, prior to resumption of practice.

13 If Respondent fails to pass said examination within the time period provided or
14 within two attempts, Respondent shall so notify the Board and shall cease practice until
15 Respondent takes and successfully passes said exam, has submitted proof of same to the Board,
16 and has been notified by the Board that he may resume practice. Failure to pass the required
17 examination no later than 100 days prior to the termination of probation shall constitute a
18 violation of probation.

19 Notwithstanding any other provision of this probation, failure to take and pass
20 this examination within five years of the effective date of this order constitutes a separate cause
21 for discipline of Respondent's license.

22 12. **Active License Status.** Respondent shall at all times maintain an active
23 license status with the Board, including during any period of suspension. If the license is expired
24 or inactive at the time the Board's decision becomes effective, the license must be renewed
25 within 30 days of the effective date of the decision and brought current and active.

26 13. **Cost Reimbursement.** Respondent shall reimburse the Board \$ 8,165.86
27 for its investigation and prosecution costs. Full payment shall be completed at least six (6)
28 months prior to the end of the probationary period. Respondent may make periodic payments as

1 agreed to by the Board.

2 14. **Relinquish Certificate.** Respondent shall relinquish and shall forward or
3 deliver the certificate or permit to practice to the Board office within 10 days of the effective
4 date of this decision and order, during the period of suspension.

5 15. **Medical Treatment.** Respondent shall undergo and continue treatment
6 by a licensed physician or therapist of Respondent's choice and approved by the Board or its
7 designee until the treating physician or therapist certifies in writing in a report to the Board or its
8 designee that treatment is no longer necessary. Respondent shall have the treating physician or
9 therapist submit reports to the Board at intervals determined by the Board or its designee.
10 Respondent is responsible for costs of treatment and reports. Prior to the end of the suspension
11 period, Respondent must provide a letter to the Board from his physician or therapist that
12 addresses his medical and/or mental condition with a statement that Respondent is fit to practice.
13 Respondent shall not engage in practice until proper notification is given to the Board by a duly
14 licensed health care professional that Respondent is mentally and physically fit to practice.

15

16

17

18

19

20

21

22

23

24

25

26 ///

27 ///

28 ///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and
3 have fully discussed it with my attorney, Michael Casterton. I understand the stipulation and the
4 effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the California Board of Accountancy.

7 DATED: 2-22-08.

8 
9 WILLIAM EDWARD HIMMELMANN
Respondent

10
11 I have read and fully discussed with Respondent William Edward Himmelmann
12 the terms and conditions and other matters contained in the above Stipulated Settlement and
13 Disciplinary Order. I approve its form and content.

14 DATED: 2/22/08.

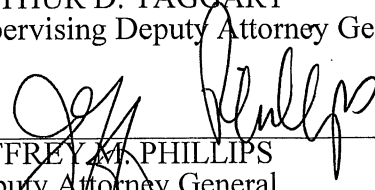
15 
16 MICHAEL CASTERTON
Attorney for Respondent

17
18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the California Board of Accountancy.

21 DATED: 1/29/08

22 EDMUND G. BROWN JR., Attorney General
of the State of California
23 ARTHUR D. TAGGART
Supervising Deputy Attorney General

24 
25 JEFFREY M. PHILLIPS
26 Deputy Attorney General

27 Attorneys for Complainant

Exhibit A
Accusation No. AC-2007-25

1 EDMUND G. BROWN, JR., Attorney General
of the State of California
2 ARTHUR D. TAGGERT
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS, State Bar No. 154990
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

9
10 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2007-25

13 WILLIAM E. HIMMELMANN
2450 Alhambra Boulevard
14 Sacramento, CA 95817

A C C U S A T I O N

15 Certified Public Accountant Certificate No.
49096

16
17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Carol Sigmann ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the California Board of Accountancy, Department of
22 Consumer Affairs.

23 2. On or about October 9, 1987, the California Board of Accountancy issued
24 Certified Public Accountant Certificate Number 49096 ("license") to William E. Himmelmann
25 ("Respondent"). The Certified Public Accountant Certificate was in full force and effect, except
26 as stated below. The certificate expired and was not valid from July 1, 1989 to October 3, 1989;
27 from July 1, 1993 to July 23, 1993; and from July 1, 1997 to July 25, 1997. On July 1, 2005, the
28 certificate expired, and is in a delinquent status, and is not valid.

JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5100 states, in pertinent part:

"After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

"(c) . . . gross negligence, or repeated negligent acts committed in the same or different engagements for the same or different clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052."

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter."

5. Section 5050 of the Code states, in pertinent part:

"(a) . . . no person shall engage in the practice of public accountancy in this state unless the person is the holder of a valid permit to practice public accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1 (commencing with Section 5096.).

6. Section 5037 of the Code states, in pertinent part:

"(b) A licensee shall furnish to his or her client or former client, upon request and reasonable notice:

"(1) A copy of the licensee's working papers, to the extent that those working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client.

//

"(2) Any accounting or other records belonging to, or obtained from or on behalf of, the client which the licensee removed from the client's premises or received for the client's account. . . "

7. Title 16 California Code of Regulations Section 52(a) provides that a "licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days. The response shall include making available all files, working papers and other documents requested."

8. Title 16 California Code of Regulations Section 68 provides that a "licensee, after demand by or on behalf of a client, for books, records, or other data, whether in written or machine sensible form, that are the client's records shall not retain such records. Unpaid fees do not constitute justification for retention of client records."

9. Code sections 118(b) and 5109 provide that the expiration, cancellation, forfeiture, or suspension of a license does not deprive the Board jurisdiction to commence or proceed with any investigation of, or to proceed with any disciplinary action of, or to render a decision suspending or revoking the license.

FACTS

WONG

10. On or about March 2, 2005, Respondent met with Helen Wong and entered into a written agreement to prepare Federal and State Income Tax Returns for Mrs. Wong's mother, Hau Chu Wong, and brother, Bill Wing Piu Wu, for the 2004 tax year. Mrs. Wong provided Respondent with documents that reported income, expenses, purchase, and sale of rental property. Respondent failed to prepare a Federal and State Non-Resident Income Tax Returns for 2004, as agreed. After Respondent failed to respond to Mrs. Wong's request for information and status of the tax preparation, she engaged the services of another accountant to prepare the returns. Respondent has failed to return the records provided to him for preparation of the returns, although he was requested to do so by Mrs. Wong. On July 13, 2006 and October 6, 2006, the Board sent letters to Respondent requesting a written response to a complaint submitted to the Board by Mrs. Wong on or about June 22, 2006. Respondent has failed to

1 respond to the Board's letters of inquiry.

2 SCHNORBUS TRUST

3 11. Respondent provided professional services as a Certified Public
4 Accountant for Paul Schnorbus for many years prior to December 11, 2003. On December 11,
5 2003, Respondent was named "first successor trustee: WILLIAM E. HIMMELMANN, CPA" by
6 Mr. Schnorbus in the PAUL A. SCHNORBUS FAMILY REVOCABLE LIVING TRUST OF
7 JULY 18, 1995 ("Trust"). Upon the death of Paul Schnorbus on December 26, 2003,
8 Respondent's successor trusteeship became effective. On or about January 28, 2004, Respondent
9 gave notice of trust administration pursuant to Probate Code § 16061.7. As the successor trustee,
10 Respondent was to complete Schedules K-1 showing the beneficiaries' shares of income from the
11 Trust, prepare Federal and State Tax Returns, provide a final accounting of the Trust funds,
12 distribute the assets of the Trust funds to the beneficiaries, and to wind up the administration of
13 the Trust. Despite repeated requests to fulfill his obligations as successor trustee, both orally and
14 in writing, and repeated assurances by Respondent that he would fulfill these obligations,
15 Respondent waited until July 26, 2006, to complete the Trust tax returns for tax years 2003,
16 2004, 2005 and to issue the Schedules K-1, and did so only after a complaint was filed with the
17 Board on or about May 11, 2006. Respondent performed his duties as successor trustee for the
18 Trust as a Certified Public Accountant. For example, Respondent completed the Trust tax
19 returns using his fictitious name registered with the Board: "W E Himmelmann & Co" and
20 submitted billing invoices to the Trust using his fictitious name: "W E Himmelmann &
21 Company" which also included the term "Accountants and Auditors since 1925." Respondent
22 caused repeated long delays in fulfilling his duties as the successor trustee, despite his repeated
23 assurances, promises, and representations that he had completed the requested tasks, which
24 caused the Trust to incur significant legal and other expenses. Respondent performed some of
25 his duties as a successor trustee after his license expired on or about July 1, 2005.

26 Other Matters

27 12. Respondent has continually held himself out and engaged in the practice of
28 public accountancy after his license expired on or about July 1, 2005. Complainant incorporates

1 by reference the acts contained in paragraph 11 that constitute public accountancy. Respondent
2 advertised his services in the "Tax Return Preparation" section of the March 2006 and March
3 2007 AT&T Sacramento Yellow Pages listing his fictitious name. Respondent maintains an
4 office at 2450 Alhambra Boulevard, Sacramento, California, with an exterior sign stating: "W.E.
5 Himmelmann & Company, Certified Public Accountants." By letters dated May 16, 2006,
6 June 19, 2006, July 26, 2006, August 4, 2006, and October 6, 2006, the Board's representative
7 notified Respondent to cease practicing accountancy with an expired license. On or about
8 February 2, 2007 and May 16, 2007, Respondent admitted to the Board's representative that he
9 continued to prepare client income tax returns in 2006 and 2007.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Gross Negligence and Repeated Negligent Acts the Practice of Public Accountancy)**

12 13. Respondent is subject to disciplinary action under section 5100(c) in that
13 he committed repeated negligent acts and gross negligence in the practice of public accountancy
14 as set forth in paragraphs 11 through 12.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Practicing without a Valid License)**

17 14. Respondent is further subject to disciplinary action under section 5050 in
18 that he practiced public accountancy as defined by section 5051 in this state without a valid
19 permit to practice as set forth in paragraphs 11 and 12.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Failure to Return Client Records)**

22 15. Respondent is further subject to disciplinary action under section 5037, as
23 well as Title 16 California Code of Regulations Section 68, in that he failed to return records
24 provided to him by his client for preparation of tax returns, after being requested to do so, as set
25 forth in paragraph 10.

26 //

27 //

28 //

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Respond to the Board's Inquiries)**

3 16. Respondent is further subject to disciplinary action under Title 16
4 California Code of Regulations Section 52(a) in that he failed to respond to inquiries made by the
5 Board's appointed representative as set forth in paragraph 10.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Willful Violation of the Accountancy Act and Board Regulations)**

8 17. Respondent is further subject to disciplinary action under section 5100(g)
9 in that he willfully violated the California Accountancy Act and Board Regulations in that he: (1)
10 willfully failed to return client records as set forth in paragraph 10, (2) willfully failed to respond
11 to inquiries made by the Board's appointed representative as set forth in paragraph 10, and (3)
12 willfully practiced public accountancy in this state without a valid permit to practice, as set forth
13 in paragraphs 11 and 12.

14 **PRAYER**

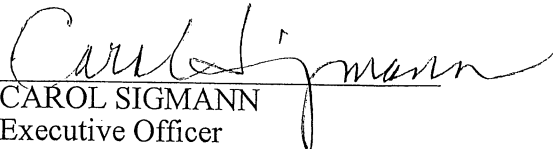
15 WHEREFORE, Complainant requests that a hearing be held on the matters herein
16 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

17 1. Revoking, suspending, or otherwise imposing discipline upon Certified
18 Public Accountant Certificate Number 49096 issued to William E. Himmelmann;

19 2. Awarding the Board costs of Accountancy the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 5107;

22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: June 14, 2007

24 
25 CAROL SIGMANN
26 Executive Officer
27 California Board of Accountancy
28 Department of Consumer Affairs
State of California
Complainant